

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: IMPLEMENTATION OF THE FEDERAL COMMUNICATIONS COMMISSION'S TRIENNIAL REVIEW ORDER ADOPTING NEW RULES FOR NETWORK UNBUNDLING OBLIGATIONS	DOCKET NO. INU-03-1
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**ORDER CLARIFYING ORDER, GRANTING INTERVENTION AND
SCHEDULING ADDITIONAL HEARING**

(Issued January 30, 2004)

On January 16, 2004, the Utilities Board (Board) issued an order¹ in this docket directing Qwest Communications, Inc. (Qwest), (as a petitioning incumbent local exchange carrier (ILEC)) and all competitive local exchange carriers (CLECs) doing business in Iowa to respond to certain requests for information, as attached to the order. The information will assist the Board in making certain determinations regarding the issue of impairment affecting mass market switching and Qwest's batch hot cut proposal. The Board is required to consider these issues pursuant to an

¹ *In Re: Implementation of the Federal Communications Commission's Triennial Review Order Adopting New Rules For Network Unbundling Obligations, "Order Regarding Nine-Month Proceeding Schedule; ruling on Qwest's Request to Postpone Identification of Relevant Geographic Markets; Granting Motion to Admit Non-Resident Counsel; Denying MCI's Motion for Discovery; and Ordering Specific Information," issued January 16, 2004.*

order issued by the Federal Communications Commission (FCC), known as the Triennial Review Order (TRO).²

The Board's January 16, 2004, order specified that "all CLECs" were to respond to the requests for information, including the CLECs listed on Attachment B to that order, as well as the CLECs that are parties to this proceeding. Attachment B was a copy of an exhibit previously filed by MCI, Inc. (MCI), in connection with a motion filed by MCI on December 19, 2003. MCI's list only included CLECs that are not parties to this docket.³ This has caused some confusion regarding the application of the order to CLECs that do not offer service in Qwest territory and to CLECs that are not parties to, and have not participated in, this proceeding.

The Board intended that all CLECs offering local exchange service in Iowa respond to the request for information. However, if a CLEC offers local exchange service only in areas not served by Qwest, a response indicating that fact is all that is necessary. Since only Qwest has requested that the Board make a determination regarding the national presumption on mass market switching, information regarding switching in areas where other ILECs provide service is not relevant to the Board's determination in this docket.

² *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98, 98-147, "Report and Order on Remand and Further Notice of Proposed Rulemaking," FCC 03-36 (rel. Aug. 21, 2003) (Triennial Review Order).

³ Several CLECs that currently have certificates in Iowa were not on the list original Attachment B. The Board has added those CLECs to a Revised Attachment B, attached to this order.

Further, in directing that responses be filed to its requests for information, the Board did not intend that non-parties be required to serve their responses on any other entity. At this time, it is sufficient if non-party CLECs file the responses with the Board.

The Board also notes that although McLeodUSA Telecommunications Services, Inc., has not filed a request to intervene in this proceeding, it filed comments on November 18, 2003, and filed testimony on January 23, 2004. The Board will interpret those filings as a request for intervention and will grant the request.

Finally, in its order issued on January 16, 2004, the Board scheduled hearings related to mass market switching to begin on May 10, 2004, continuing as necessary on May 11-14, 2004. On January 23, 2004, the parties filed testimony related to the separate issue of Qwest's batch hot cut proposal. That testimony indicates there are a number of unresolved issues related to Qwest's proposal. In order to allow sufficient time to consider all of the batch hot cut issues, the Board will schedule additional hearing dates for that purpose, beginning on May 4, 2004.

IT IS THEREFORE ORDERED:

1. The Board's order of January 16, 2004, is clarified, amended, and revised as indicated in this order.
2. McLeodUSA Telecommunications Services, Inc., is granted intervention in this proceeding.

3. A hearing for the purpose of receiving testimony and cross-examination of all testimony related to Qwest's batch hot cut proposal will commence at 10 a.m. on May 4, 2004, in the Board's hearing room at 350 Maple Street, Des Moines, Iowa. To the extent necessary, the hearing shall continue on May 5-7, 2004. These hearing dates are in addition to the hearing previously scheduled for May 10-14, 2004, regarding the issue of mass market switching. Parties shall appear at the hearing one-half hour prior to the time of hearing to mark exhibits. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Board at 515-281-5256 to request that appropriate arrangements be made.

4. In the absence of objection, all workpapers shall become a part of the evidentiary record at the time the related testimony and exhibits are entered in the record.

5. In the absence of objection, all responses to the information requested by the Board in this order shall become a part of the evidentiary record.

6. In the absence of objection, all data requests and responses referred to in oral testimony or cross-examination shall become a part of the evidentiary record. The party making reference to the data request or response shall file an original and six copies at the earliest possible time.

7. In the absence of objection, if the Board calls for further evidence on any issue and that evidence is filed after the close of hearing, the evidentiary record shall be reopened and the evidence will become a part of the evidentiary record five

days after filing. All evidence filed pursuant to this paragraph shall be filed no later than seven days after the close of the hearing.

8. Pursuant to 199 IAC 7.7(11), the deadline for filing responses to motions will be no later than five days from the date the motion is filed. All motions should be served on all other parties, and on all persons who have filed a petition to intervene that has not yet been ruled upon, by facsimile transfer or by electronic mail as well as by United States mail, on or before the date of filing.

9. The Executive Secretary of the Board is directed to mail a copy of this order to each person listed on Revised Attachment B. In addition, the Executive Secretary shall mail a copy of the Board's January 16, 2004, order to the six CLECs that were not listed in the original Attachment B but that are included in the Revised Attachment B attached hereto.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 30th day of January, 2004.

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